



Oregon

Kate Brown, Governor



550 Capitol St. NE
Salem, OR 97301-3737
Phone: (503) 378-4040
Toll Free: 1-800-221-8035
FAX: (503) 373-7806
www.Oregon.gov/ENERGY

August 14, 2020

David Lawlor
Wheatridge Wind Energy, LLC
FEW/JB
700 Universe Blvd.
Juno Beach, FL 33408

Sent via email: David.lawlor@nexteraenergy.com; Nicholas.humphreys@nexteraenergy.com; brian.burns@nexteraenergy.com; Kenneth.stein@nexteraenergy.com; carrie.konkol@tetrattech.com; Anneke.solsby@tetrattech.com

RE: Department Determination on Certificate Holder's Amendment Determination Request to Modify the Site Boundary for an Alternate Underground Collector Line Route at Wheatridge Renewable Energy Facility II

Dear Mr. Lawlor,

On August 6, 2020, the Oregon Department of Energy (ODOE or the Department) received an Amendment Determination Request (ADR) submitted pursuant to OAR 345-027-0357(1)(b) from Wheatridge Wind II, LLC (certificate holder) for the Wheatridge Renewable Energy Facility II (facility) Site Certificate requesting concurrence from the Department that a site certificate amendment would not be required for a modification to the site boundary to include approximately 4 new acres within approximately 400 feet of the existing site boundary, and remove the approximate equivalent area within the existing site boundary due to geographic constraints limiting feasibility of siting facility components, for the construction and operation of an underground collector line using an alternative route. The alternate route would extend approximately 1,500 feet in length and 60 feet in width ("proposed site boundary modification").

Under OAR 345-027-0357(1)(b) and (4), a certificate holder may submit an ADR to the Department for a determination of whether a proposed change that would add area to the site boundary requires a site certificate amendment. The rule requires that the ADR include a description of the proposed change, maps representing the effects and/or location of the proposed change, an evaluation of changes requiring an amendment (OAR 345-027-0350), and any additional information the certificate holder believes would assist the Department's evaluation as to why a site certificate amendment would not be required. The ADR provides an evaluation of OAR 345-027-0350 including whether the proposed change would: result in a significant adverse impact protected by an applicable law or Council standard that the

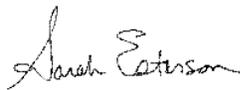
Council has not addressed in an earlier order; impair the certificate holder's ability to comply with a site certificate condition; or, require a new or amended site certificate condition.

As presented in Attachment 1, ODOE Evaluation and Determination – WREFII Site Boundary Modification, the Department concludes that the ADR includes all information required by OAR 345-027-0357(4) and, based on review of the ADR, concurs with the certificate holder and confirms that the proposed site boundary modification would not require a site certificate amendment. In the semi-annual or annual report, or next site certificate amendment request, the Department requests that the certificate holder describe the August 6, 2020 ADR, the Department's August 14, 2020 determination, and provide updated GIS data corresponding to the modified site boundary.

Pursuant to OAR 345-027-0357(5) and (6), on August 14, 2020, the Department posted the ADR and the Department's determination on the ADR on the WREFII project webpage at <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/WREF-II.aspx>, with an announcement notifying interested individuals of the availability of the information. The Department also sent a courtesy notice to the Council's general mailing list and the special mailing list established for the facility (including the list set up for the legacy facility, Wheatridge Wind Energy Facility) via its electronic distribution service, ClickDimensions. At the August 21, 2020 Energy Facility Council meeting, Council Secretary Todd Cornett will provide verbal notice of the ADR and Department's determination to the Council during the Consent Calendar agenda item. Pursuant to OAR 345-027-0357(6), the certificate holder or the Council may request that the Department's determination be referred to Council for concurrence, modification or rejection.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Sarah Esterson, Senior Siting Analyst
Oregon Department of Energy
550 Capitol St N.E., 1st Floor
Salem, OR 97301
P: (503) 373-7945
E: sarah.esterson@oregon.gov

Attachment: ODOE Evaluation and Determination (WREFII ADR – Site Boundary Modification)

cc (via e-mail distribution)

Todd Cornett, Oregon Department of Energy
Max Woods, Oregon Department of Energy
Duane Kilsdonk, Oregon Department of Energy

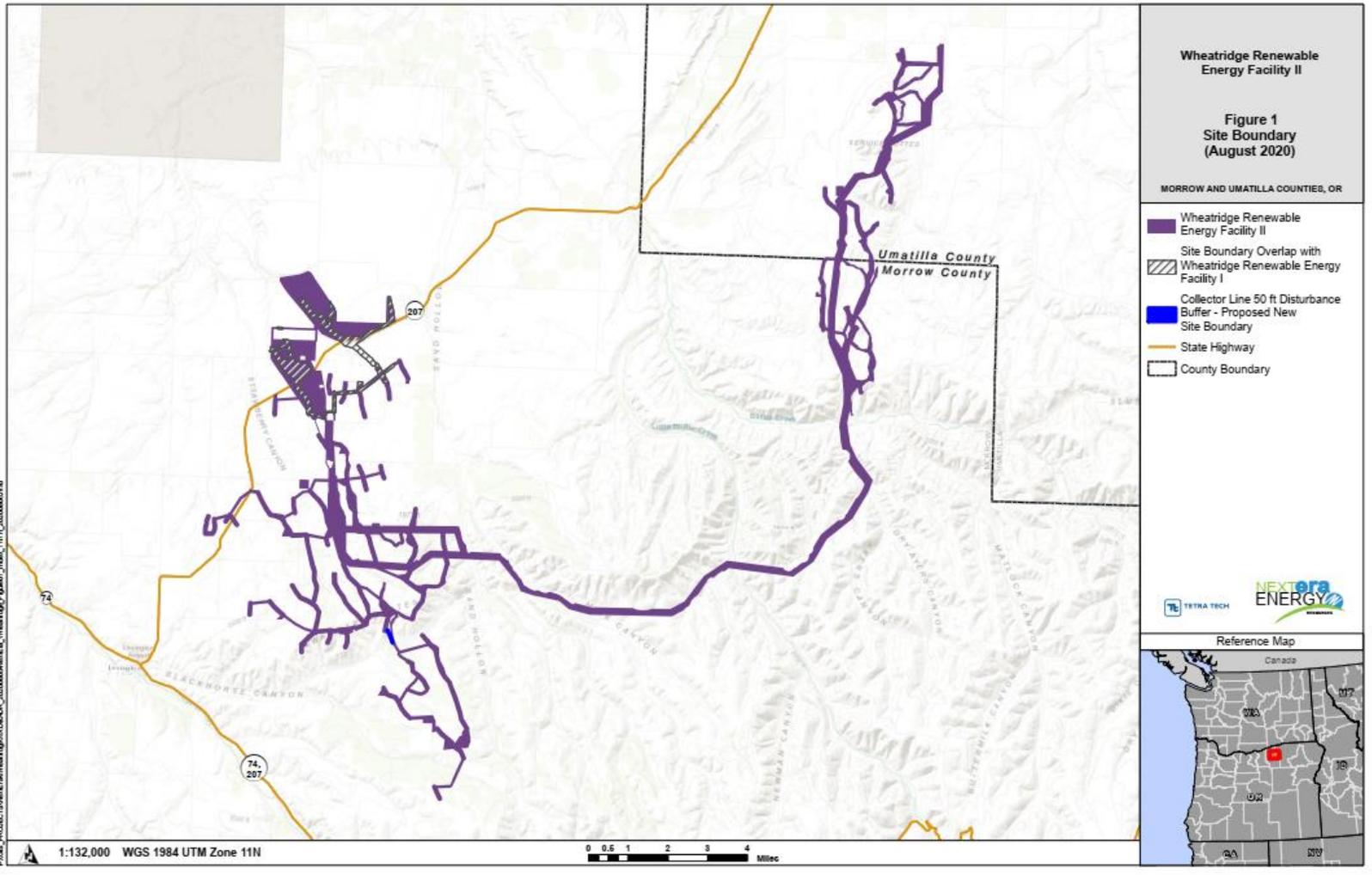
Attachment 1: ODOE Evaluation and Determination (WREFII ADR – Site Boundary Modification)

ODOE Evaluation and Determination (WREFII ADR – Site Boundary Modification)

Introduction

The certificate holder proposes to modify the site boundary to include 4 new acres, within approximately 400 feet of the existing site boundary, in Morrow County to authorize use of an alternative route for construction and operation of an underground collector line (between wind turbines 92 and 111), with a maximum temporary disturbance footprint of 1,500 feet (length) by 60 feet (width). The area where the original collector line route was proposed, approximately 400 feet from new area, would equivalently be removed from the site boundary. The proposed site boundary modification was identified as necessary in July 2020, during current facility construction, where upon further review and engineering, the original collector line route was determined unsafe for trenching and boring equipment operation. The ADR describes that the collector line required reroute because the selected route was located on terrain with slopes exceeding 15 percent grade, where trenching and boring equipment can only operate safely on slopes with grades 15 percent or less without risk of tipping. The route that would be located within the new site boundary area includes slopes with grades less than 15 percent and would provide a shorter overall length than the original route. As presented on Figure 1 below, the existing site boundary includes corridors extending approximately 660 feet in width, in general, around wind turbines and wind turbine strings. The new area to be included in the modified site boundary is located within two wind turbine strings (see blue shaded area on Figure 1). The area to be removed from the site boundary is 400 feet east, and similar in length.

Figure 1: Proposed Site Boundary Modification for Alternate Underground Collector Line Route



Evaluation of Amendment Determination Request and Applicable Council Standards

OAR 345-027-0350 contains the criteria used by the Oregon Department of Energy (Department) and Energy Facility Siting Council (Council) to determine when a proposed facility change requires a site certificate amendment. The certificate holder's August 6, 2020 Amendment Determination Request (ADR) includes an assessment of each criteria contained in the rule. The rule states:

OAR 345-027-0350(4): ...an amendment to a site certificate is required to...design, construct, or operate a facility in a manner different from the description in the site certificate, if the proposed change:

- (a) Could result in a significant adverse impact that the Council has not addressed in an earlier order and the impact affects a resource protected by Council standards;*
- (b) Could impair the certificate holder's ability to comply with a site certificate condition; or*
- (c) Could require a new condition or a change to a condition in the site certificate*

An ADR confirming any of the above criteria would result in a determination that a site certificate amendment is required. If the ADR demonstrates that none of the above criteria would be met, the proposed change can be completed without an amendment of the site certificate.

Evaluation Under OAR 345-027-0350(4)

In order to evaluate whether a site certificate amendment is required, the certificate holder prepared and provided a compliance evaluation of all standards relevant to the proposed site boundary modification. Based upon review of the ADR, specific standards are further evaluated based on key issues when adding area to the site boundary for siting of facility components. Other standards and applicable substantive criteria determined by the Department not likely to be impacted by the proposed site boundary modification and where reliance on the Council's previous findings were determined acceptable are not further evaluated.

Construction and operation of underground collector lines was represented in the Application for Site Certificate (ASC) and therefore has been reviewed and approved by Council as part of the design and construction of the facility. Underground collector lines require trenches at depths of 3-feet or greater and include installation of 34.5 kilovolt (kV) insulated, stranded metal conductors nearly 3 inches in diameter, consisting of three wires, or phases and junction boxes.

Structural Standard [OAR 345-022-0020]; Soil Protection Standard [OAR 345-022-0022]

The proposed site boundary modification could result in significant, adverse soil impacts and seismic, geologic and soil hazards. However, based on the proximity of the proposed site boundary modification to the existing site boundary (i.e. within 400 feet), the seismic, non-seismic and soil characteristics of the new site boundary were previously evaluated on the record of the ASC. Based on the Department's review of the ADR and ASC Exhibits H (Structural) and I (Soils), the new site boundary area contains the same characteristics and soil types as the approved site boundary and would not present any new or different risks not previously evaluated.

The certificate holder also refers to requirements of existing conditions to support its compliance demonstration with the Structural Standard and Soil Protection standard. Specifically, Condition PRE-SS-01 requires a pre-construction site specific geotechnical investigation to be conducted; and, Condition CON-SP-01 and CON-SP-02 requires that construction activities be conducted in compliance with an Erosion and Sediment Control Plan as approved under the federally-delegated National Pollutant Discharge Elimination System Stormwater Discharge General Permit #1200-C.

The Department confirms that a pre-construction site specific geotechnical investigation report was submitted in December 2019, in accordance with Condition PRE-SP-01. The report was reviewed by the Department and Department of Geology and Mineral Industries (DOGAMI) staff Yumei Wang and assessed conditions extending beyond the site boundary, including the new site boundary area. Based on DOGAMI's review of the pre-construction geotechnical investigation report, it was determined that the design of the facility was sufficient to minimize public health and safety risks from potential seismic and non-seismic risks at the site and within the region. Based on the Department's review of the 2019 site-specific geotechnical investigation, and DOGAMI consultation and concurrence, the Department considers the 2019 evaluation to represent an adequate characterization of the site and a sufficient representation that the proposed new site boundary area can be utilized for the proposed underground collector line in a manner that would avoid dangers to human safety from geologic and seismic hazards. In addition, because the requirements of Conditions CON-SP-01 and CON-SP-02 (construction-related soil erosion control measures) would apply to the new site boundary area, the Department considers compliance with existing site certificate conditions sufficient to minimize potential soil impacts such as erosion, compaction and spills.

The Department concludes that the proposed site boundary modification would not be likely to result in a significant adverse impact that the Council has not addressed in an earlier order nor result in a new impact affecting a resource protected by the Structural Standard or Soil Protection standard. The Department further concludes that the use of the new site boundary area would not be likely to impact the certificate holder's ability to comply with a site certificate condition or require a new or change in existing condition.

Land Use [OAR 345-022-0030]

The certificate holder states that the proposed new site boundary area would be located on private, arable Exclusive Farm Use (EFU) zoned land, consistent with land use characteristics of the approved site boundary. The land use conditions and design and construction of collector lines would not differ from those previously evaluated by Council in previous orders for the facility (legacy Wheatridge Wind Energy Facility), where underground collector lines would result in temporary soil erosion and compaction, vegetation disturbance and potential introduction or increased noxious weed infestation to agricultural practices within the surrounding area. Conditions CON-SP-01 and CON-SP-02, as described above, were previously imposed to minimize soil erosion and compaction impacts during facility construction; Conditions PRE-FW-05 and PRE-LU-03 require implementation of a Revegetation Plan and Noxious Weed Control Plan during both construction and operation, and includes requirements for long-term monitoring and reporting. Because the proposed new site boundary area would not result in new land use conditions and collector line construction was previously identified and evaluated as part of facility design and construction, the Department concludes that the proposed site boundary modification would not be likely to result in a significant adverse impact that the Council has not addressed in an earlier order nor result in a new impact affecting a resource protected by the Land Use standard. The

Department further concludes that the proposed site boundary modification would not be likely to impact the certificate holder's ability to comply with a land use-related site certificate condition or require a new or change in existing condition.

Fish and Wildlife Habitat [OAR 345-022-0060]; Threatened and Endangered Species [OAR 345-022-0070]

In the ADR, the certificate holder describes that the vegetation characteristics within the new site boundary area includes revegetated and native perennial grassland. In addition, the new site boundary area is within Oregon Department of Fish and Wildlife's (ODFW) designated Category 2 habitat for big-game winter range, consistent with non-agricultural areas of the existing site boundary. The certificate holder confirms that the new site boundary area is within suitable habitat for Laurent's milkvetch, a state-listed threatened native plant species. The certificate holder surveyed the new site boundary area in 2019, during protocol-level Washington Ground Squirrel (WGS) surveys conducted to satisfy pre-construction requirements, and on August 6, 2020 for presence of Laurent's milkvetch. The Department, in consultation with ODFW District Biologist Steve Cherry reviewed the 2019 survey report and confirm that the survey area included the new site boundary area, based on protocol survey area, and that the results applicable to the new site boundary area did not identify the presence of any WAGS or other state-listed species. Based on the 2020 survey, the certificate holder confirms that Laurent's milkvetch was not present within the new site boundary area.

The certificate holder describes that the proposed alternate collector line route would result in temporary disturbance to Category 2 grassland habitat, which would be mitigated through the Revegetation Plan (PRE-FW-05). The certificate holder confirms that temporary impacts to grassland habitat, habitat types expected to recover within a relatively short duration (3-5 years), are not required to be mitigated through the Habitat Mitigation Plan (HMP) because the HMP covers permanent and temporal habitat impacts. Therefore, the proposed site boundary modification would not impact or require changes to the HMP. Based on review of the HMP (December 2019), the Department concurs that the HMP would not be impacted or require amendment as a result of habitat impacts from activities within the new site boundary area.

Conditions PRE-FW-05 and PRE-LU-03 require implementation of a Revegetation Plan and Noxious Weed Control Plan during both construction and operation, mitigating temporary impacts to grassland habitat. These conditions ensure that temporary habitat impacts within the new site boundary area are mitigated consistent with the Council's Fish and Wildlife Habitat standard. Conditions GEN-FW-01 and CON-FW-02 establish restrictions on construction timing within mule deer winter range from December to March; and within sensitive nesting seasons of State-sensitive raptor nests, if in proximity to construction activities. In the ADR, the certificate holder confirms that the proposed site boundary modification and construction of the underground collector line using the alternate route would maintain compliance with these conditions because construction would commence and conclude between June and August (outside of the mule deer winter range sensitive season), and because there are no raptor nests or nesting structures within proximity to the new site boundary area.

Based upon continued compliance with these conditions and based on the Department's evaluation of the certificate holder's analysis, the Department concludes that the proposed site boundary modification would not be likely to result in significant adverse impacts to fish and wildlife habitat and threatened and endangered species that the Council has not addressed in an earlier order. The

Department further concludes that the proposed site boundary modifications would not be likely to impact the certificate holder's ability to comply with a site certificate condition previously imposed to satisfy the Council's Fish and Wildlife Habitat, or Threatened and Endangered Species standards or require a new or change in existing condition.

Historic, Cultural and Archeological Resources [OAR 345-022-0090]

The certificate holder conducted a literature review in 2014 as part of the ASC to identify studies and previously recorded historic, cultural and archeological resources within 1-mile of the site boundary, and, on August 3, 2020 conducted a pedestrian level field survey of the proposed new site boundary area. Based on the 2014 literature review and 2020 pedestrian level field survey, the certificate holder confirms that there are no cultural, historic or archeological resources documented or identified within the proposed new site boundary area that could be impacted during construction or operation. Council previously imposed Condition CON-HC-02 requiring that if, during construction, unknown historic, cultural or archeological resources are inadvertently discovered, that the certificate holder stop work and contact the Department and Oregon State Historic Preservation Office to consult on proper handling and evaluation of the resource prior to work continuation. Based on the results of the 2014 literature review, as reviewed by the Department and SHPO, and results of the 2020 pedestrian-level survey, and compliance with existing site certificate conditions, the Department concludes that the Council may continue to rely upon the existing conditions in the site certificate to address the protection of historic, cultural and archeological resources within the site boundary. Further, the Department concludes that the proposed new site boundary area would not be likely to result in significant adverse impacts to cultural, historic and archeological resources that the Council has not addressed in an earlier order.

Removal Fill Law [OAR 141-085-0500 through 141-085-0785]

In the ADR, the certificate holder presents the results of review of the United States Fish and Wildlife Service's National Wetlands Inventory database for jurisdictional waters within the proposed new site boundary area (results presented on WREFII ADR Figure 2). The certificate holder also describes a reconnaissance level biological survey conducted on August 4, 2020, where presence of wetlands or waters of the state was assessed. Based on the database review and 2020 survey, the certificate holder confirms that there are no jurisdictional waters of the state within the proposed new site boundary area. Therefore, based on the Department's review of the certificate holder's assessment, the Department agrees with the certificate holder that because there are no jurisdictional waters of the state which could be impacted within the new site boundary area, a Removal-Fill permit from the Oregon Department of State Lands continues not to be required for the facility.

Determination

The Department agrees with the certificate holder's evaluation under OAR 345-027-0350 and determines that the proposed site boundary modification included in the WREFII ADR do not require a site certificate amendment. The Department agrees that the proposed new site boundary area would not cause a significant adverse impact to a resource protected by EFSC standards, and would not substantially impair the certificate holder's ability to comply with site certificate conditions. Compliance with applicable EFSC Standards, State and local laws, rules, and ordinances would not be expected to be affected by the proposed site boundary modification. In accordance with the requirements of OAR 345-

027-0355(2), the certificate holder shall include a description of the proposed site boundary modification and the Department's determination in the next semiannual report. ODOE will also document the change in an order associated with the next site certificate amendment.

OAR 345-027-0357(6) allows that at the request of a Council member, the Department's determination must be referred to the Council for concurrence, modification, or rejection. In compliance with this rule, the Department will provide its determination and inform the Council of its rights under the rule. Should a Council member request to review the determination, the determination would likely go before EFSC at an upcoming Council meeting.